

REMARKS

Claims 1-15 are pending in the above-identified application. These claims have been subjected to a Unity of Invention Requirement as follows:

Group I -- claims 1-9, 11 and 13 directed to substituted triazolopyrimidine compounds/compositions of formula I;

Group II -- claim 11 directed to intermediate compounds of formulas IV and V;

Group III -- claims 10 and 12 directed to processes for preparing compounds of Group I;

Group IV -- claim 14 directed to seed which comprises a compound of Group I; and

Group V -- claim 15 directed to the use of compounds of Group I to control fungi.

Responsive Unity Requirement Election

Applicants hereby elect the subject matter of Group I, i.e. claims 1-9, 11 and 13. This election is made with a traversal based on the reasons indicated below.

Reasons for Traversal

The Examiner describes the specific technical feature of formula I as a triazolopyrimidine substituted at the 5-position, at the 6-position by a substituted phenyl ring and at the 7-position by a substituted amine. The Examiner is correct that compounds of this rather unspecific

definition have been described earlier. Nevertheless, the essential and novelty establishing feature of the compounds of formula I is defined more specifically by a combination of: [1] a special substitution pattern of the 6-phenyl group; [2] a specific design of the variable X, namely an alkyl chain, in position 5 of the triazolopyrimidine skeleton. It is also noted, that the amino group NR^1R^2 (position 7 of the triazolopyrimidine skeleton) is defined as typically in this technological area. The document cited by the Examiner, U.S. Patent 6,117,876 (Pees '876) merely discloses halogen in position 5 together with a different substitution pattern of the 6-phenyl group. Consequently, Pees '876 fails to disclose or suggest the above-mentioned special technical feature of compounds of formula I, which define over prior art. Hence, unity is present according to PCT standards (PCT rule 13.1).

Secondly, it is respectfully requested that the Examiner at least reduce the Unity of Invention Requirement such that at least Group V be examined together with elected Group I. In this regard, it is noted that in the "Administrative Instructions under PCT" and Annex B (MPEP, rev. 5, August 2006, pp A-157 to A-158), the combination of claims from different categories is permitted under the Unity of Invention Rules. Specifically, Annex B in rule (e)(a) states "...in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of said product and an independent claim for the use of said product [is permitted]...". Consequently, at least the subject matter of Group V should be examined together with the elected subject matter of Group I.

It is additionally recognized that the Examiner has indicated the possible "rejoinder" of the process claim subject matter of Group III with elected Group I.

Finally, it is respectfully requested that the Examiner also reduce the Requirement to include the subject matter Group IV together with the elected subject matter of Group I. Group IV includes claim 14 directed to a seed which includes a compound or composition of formula I. It is submitted that there is no significant undue burden placed on the Examiner to additionally examine this subject matter which overlaps with the elected subject matter of Group I and introduces no additional significant examination or search issues.

Responsive Election of Species

In response to the Election of Species Requirements, Applicants hereby provisionally elect Compound No. A-6 (Table A in combination with Table 2, page 12, lines 9-11 of the specification). This election is made with a traversal based on the following reasons.

Reasons for Traversal of Election of Species Requirements

The Election of Species Requirement is respectfully traversed, since the compounds encompassed by the claims of the elected Group I all share a common core structure such that the examination and search by the Examiner of all of these encompassed compounds not cause any serious or undue burden to be placed on the Examiner. In addition, the issues in connection with the examination and search of this subject matter are related and overlapping. Therefore, it is requested that this Requirement be traversed.

It is noted that claim 9 has been amended such that this claim is now consistent with Table 3 at page 12, line 6 of the specification, as well as claim 1.

If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

Andrew D. Meikle

Registration No.: 32,868

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant